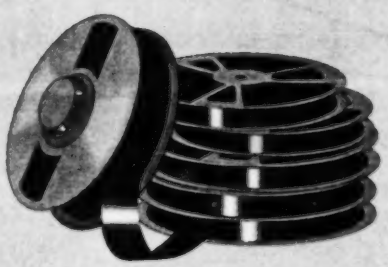
Ontario

Ontario Film Review Board

Annual Report

2004/2005



www.ofrb.gov.on.ca

January 30, 2006

The Honourable Gerry Phillips
Minister of Government Services
Whitney Block
4th Floor, Suite 4320
99 Wellesley St. W.
Toronto ON M7A 1W3

Dear Minister Phillips:

I am pleased to present the Annual Report of the Ontario Film Review Board for the fiscal year ending March 31, 2005.

The report outlines the duties and responsibilities of the Ontario Film Review Board under the mandate of the *Theatres Act* and the operating results for the fiscal year.

Yours sincerely,

Janet Robinson, Chair

Ontario Film Review Board

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Report from the Chair

The fiscal year 2004-2005 was a year of many changes for the Ontario Film Review Board (the Board). Regulations expanding the powers of the board came into effect, a new Act to replace the *Theatres Act* was being drafted, our daily activities have been streamlined and our Public Education Program is expanding with new initiatives.

Changes to the *Theatres Act* and regulations

The *Ministry of Consumer and Business Services Statute Law Amendment Act, 2004* (Bill 70) was passed. Amendments to the *Theatres Act*, contained in the Bill, set out the power to make regulations which allowed the Board to adopt classifications of other bodies and which would clarify the process for elimination of a film's exemption to classification and approval. Regulations came into effect which allowed for the adoption of classifications of video games made by the Entertainment Software Board, a voluntary industry based video game classification body. Distribution of video games, in contravention of the age restrictions of a classification limited to persons 18 years or older, was prohibited.

On April 30, 2004, the Ontario Superior Court held, in the *R. v. Glad Day Bookshops* case that the Board's ability to refuse approval of films infringed the right to freedom of expression under the Canadian Charter of Rights and therefore should be struck down as unconstitutional. As a result of the court's ruling it was necessary to change the law within one year from the date of the court's decision, namely April 30, 2005, or the approval and classification powers of the board would be struck down. The court allowed a 4 month extension for passage of a new Act to August 31, 2005.

In order to address the Glad Day decision, on an interim basis, a regulation was made in order to limit the approval powers of the board to adult sex films only. This regulation took effect on July 5, 2004.

In November 2004 the OFRB partnered with The Retail Council of Canada (RCC) in an "OK to Play" campaign regarding age appropriate rentals and purchases of video games.

During the year, a new Act replacing the *Theatres Act* was drafted to reflect the Glad Day decision as well as to modernize Ontario's film classification system. Bill 158, the *Film Classification Act, 2004* was introduced on December 9, 2004.

With the development of new legislation, the Board began to move forward with the film board harmonization discussions across Canada. At Show Canada, an annual conference of provincial film boards, we will be discussing a possible partnership with British Columbia. It is hoped that this co-partnering will lead to the standardization of our classification decisions and reduce the cost to distributors who will only need to pay one board to screen their film.

Daily Activities

In 2004 - 2005 the Board classified 4,708 titles on 35mm film, VHS and DVD, reviewing a total of 481,819 minutes of film. Not included were undertakings with 3,051 titles involving 381,219 minutes of screening time.

The Board has decreased in size from 21 to 16 members. With a smaller board we will have a more consistent decision making process, resulting in fewer appeals. We must continue to maintain a balance of male and female members, and ensure our members provide representation from the entire province. Two-member panels appear to be working well and all members are trained in the administrative work that is required in completing summary reports.

The Board produced a formal "Member Reference Manual", a document designed to grow and change with the Board, that can be easily amended to reflect new policies or procedures. Our reference document "Classifying Mainstream Films" defines our classification guidelines and has been adopted by the 5 other provincial Boards. Our public evenings continue to be very

popular with the community. I initiated a program for the local film schools to come and participate in the classification of a mainstream film. We had 28 public evening screenings with approximately 525 participants.

Objectives of the Chair

My major objective as Chair of the Board is to provide information to the consumers of Ontario. It is important we supply individuals with sufficient information to make informed entertainment choices for themselves and, most importantly, for their children.

In the coming year I would like to see the information available on our web site expanded to include not only film classifications and information pieces, but also all elements observed by the panel during the classification process. To promote increased awareness of Ontario's classification system, I am in the early stages of preparing a competition for Film Schools whereby students would create a one minute public service announcement (PSA) explaining our classifications and the importance of information pieces. The winning PSA would then be shown before every 35mm film in all Ontario theatres. I believe this to be a valuable project that will benefit both the film students who are participating and all of the movie-goers in Ontario.

Looking to the future, we will continue to further our excellent working relationship with the film industry, strive to improve our web site, go forward with new ideas and initiatives to educate and serve our clients, the residents of Ontario.

My first six months as the Chair of the OFRB have been exciting and challenging. I am looking forward to the future with a commitment to undertake new challenges, to promote education, and inspire innovation.

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The Board and its Operations

Our Mission

The Ontario Film Review Board (OFRB) receives its mandate from the Ontario government through the *Theatres Act* and operates as an arms-length agency reporting to the Minister of Government Services.

Subject to a few specific exceptions, if a film (feature/trailer) or video/DVD is to be distributed or exhibited in Ontario, it must first be classified by the OFRB.

The Board's objective is to classify films videos/DVDs and thereby provide the viewing public with sufficient information to make informed viewing choices for themselves and for their children.

Who We Are

The OFRB is a community Board, and its members represent a cross-section of the many diverse communities across Ontario. The Board's members vary in age, gender, vocation, cultural background and sexual orientation.

On the recommendation of the Minister of Government Services and the Provincial Cabinet, members are appointed for a three-year renewable term, by the Lieutenant Governor through Orders-in-Council.

Members work a seven-hour day, usually four to five times per month, and are paid on a per diem basis.

Types of Panels

There are three types of screening panels with a senior member providing oversight to each. Each type of panel serves a different purpose as follows:

Normal: This panel consists of one to three members. Although the members endeavour to agree on the classification, occasionally one may disagree strongly with the classification, and that member may request a cumulative panel.

Cumulative: Three other Board members screen the film or video. The results of both the Normal and Cumulative Panels are tallied, and the majority rules. Since a member initiates this process, there is no cost to the distributor.

Appeal: This panel is requested and paid for by a distributor who is dissatisfied with the Board's decision. It consists of five members who have not yet seen the film in question. This panel's decision as to classification is final, but an appeal to Divisional Court respecting approval is available.

By the time a controversial film or video has gone through three panels, 10 different Board Members have viewed the film. Therefore, appeals through the Courts are rare.

How We Classify

The Board members take into account the general character and integrity of each film in its entirety and use the *Theatres Act* and sets of guidelines to determine the film's classification. These guidelines, which are continually reviewed and updated, allow the Board to be objective yet flexible. In this way, the Board is not only able to maintain the integrity of community standards, but also to appreciate and accommodate the film's artistic merit, or social and documentary significance.

While viewing the film, each panel member makes extensive notes on all elements that contribute to the classification. These elements include coarse language, nudity, violence, sexual activity, horror and psychological impact. Following the screening, panel members use these detailed notes in their discussion and to frame their ultimate decision as to the classification of the film or video.

Each element is weighed on the basis of content and treatment and the cumulative effect of those factors on the audience. Members consider style, tone, duration, frequency and the amount of visual and/or verbal detail. How the elements relate to the narrative also contributes to the Board's decision.

Besides the classification, the Board may choose to include information pieces, such as *Nudity*, *Coarse Language* or *Brutal Violence*. These warnings, along with the classification, must

appear on all advertising to help the viewer make informed choices.

Why We Classify

A film classification board helps consumers make informed choices about the films and videos they see. Throughout the developed world, movie viewers have asked for industry-independent information about age-suitability (the classification) and content (advisories such as *Coarse Language, Violence, Nudity*, etc.) of films. This information assists them in deciding whether a particular movie is appropriate for their children, or for themselves.

Most developed countries, including the United States, Great Britain, Australia, New Zealand, South Africa, France, Germany, Spain, Portugal, Greece, Norway, Denmark, and Sweden have film classification boards.

The OFRB's focus is classification, not censorship. The Board is a valued source of information about movies and videos that help viewers make the right entertainment decisions for themselves and for their children.

Our Community

Community standards are at the forefront whenever the OFRB revises its guidelines. The Board uses many avenues to gauge the needs of the community it serves.

The OFRB is structured specifically to address community standards issues. The public Board consists of ordinary people, from all over the province, which work part-time for the Board. Members are all ages, with diverse work histories, ethnic backgrounds and sexual orientations. There is a nearly equal male-female split in the Board and classification panels include both male and female members if possible. The OFRB is structured this way so that its decisions will reflect Ontario's diverse communities.

The full Board meets twice a year to discuss any changes in policy, procedure or guidelines. All changes are discussed, debated and voted on by the full Board before any changes are made. The OFRB hears from a wide variety of speakers including child psychologists, members of public interest groups concerned about

areas such as media violence and representatives from the movie industry.

We test our perception of community standards in twice-monthly evening screenings where public groups view a movie with the official panel and compare their opinions about how the movie should be classified against the official panel's decision.

We also hear directly from the media, from public interest groups, and from members of the general public via letter, telephone, fax, e-mail and our web site.

Our responsibility is to understand and reflect the community standards of Ontario.

Refusal to Approve

Following the Glad Day decision in April 2004, the Board's authority to refuse approval of films was narrowed to films that have as their main object, the depiction of explicit sexual activity. The court ordered a severance of classification process from the approval process. The Ministry of Government Services has taken the opportunity to modernize the legislative scheme to better reflect technological, legal and marketplace changes.

The Board's authority to refuse approval is based on the standards of criminal obscenity. We regularly review our Adult Sex Guidelines to ensure as much consistency as possible, within our mandate as a provincial regulator, with the Canadian Border Services and the Criminal Code of Canada. The Board plays no role in determining obscenity or child pornography. This is a function of the police and is a federal responsibility.

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Financial & Operational Information 2004-2005

Financial Information 2004/2005

Revenue:	Film and Video Classification Fees **	$2,735,930
	Total Revenue	$2,735,930
Expenditures:	Per Diems	$227,600
	Direct Operating Expenses	$ 89,300
	Administrative & Overhead Expenses	$418,973
	Total Expenditures * **	**$735,873**

** For classification of films including videos and DVDs distributors pay $4.20 per minute, foreign language films (except French) pay a flat fee of $78.75 per item, and there is no fee for films wholly produced in Canada. There are also fees for classifying trailers, and for films by documentation.

*** Note: This excludes indirect costs related to activities such as inspection, enforcement, legal, policy, etc.

Mainstream Films by Classification

	2004/2005	2003/2004		2002/2003
General	21.0%	23.7%	**General**	17.0%
Parental Guidance	35.1%	35.0%	**Parental Guidance**	30.4%
14A	31.9%	27.6%	**Adult Accompaniment**	41.6%
18A	6.6%	10.5%		
Restricted	5.5%	3.2%	**Restricted**	11.0%

Financial and Operational Information

	2004/2005	2003/2004	2002/2003	2001/2002
Financial:				
Revenue	$2,735,930	$2,876,500	$2,728,500	$2,405,000
Expenditures	$735,873	$757,700	$809,700	$856,100
Operational:				
Titles Processed:				
Mainstream	2,200	1,906	1,625	1,348
Foreign	337	408	191	248
Adult Sex Films	1,644	1,997	2,226	2,386
Trailers	527	482	422	439
Total Titles	**4,708**	**4,793**	**4,464**	**4,421**
Minutes Viewed				
Mainstream	266,304	199,034	150,191	122,902
Foreign	36,688	41,601	21,336	29,064
Adult Sex Films	177,590	210,668	229,382	235,080
Trailers	1,247	1,199	1,134	1,501
Total Minutes	**481,819**	**452,502**	**402,043**	**388,547**
Panels:				
Number of Panels	409	431	653	510
Average Panel Minutes	1,178	745	613	729
Number of:				
Appeals – changed	15	17	16	16
Appeals – No Change	3	9	9	14
Non-Approvals	9	30	89	95
Permits- Film Festivals	528	346	370	226
Permits – Individuals	33	36	29	80
Classifications by Doc'n	138	214	186	223
Undertakings- Mainstream	1316	718	422	360
Undertakings – Adult Sex	1312	2,116	1,892	1,091
Undertakings – Foreign	128	207	202	59

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Chair

Janet Robinson

Janet Robinson is a Registered Nurse, she worked for 24 years in a demanding obstetrical/gynaecological practice. She established a consulting company that provided home visits to new parents.

Janet worked several years as a part time contract Occupational Health Nurse with Toronto Star, Ontario Power Generation and the Royal York Hotel.

Janet is also active in her community where she lives with her husband. They have two grown children and two grandchildren. When her schedule permits, she loves to pursue her passion for reading and golf with friends and family.

Members Of The Ontario Film Review Board:

Member	Municipality	Member	Municipality
Tina Bragagnol	Pickering	**Eva Knies**	Mississauga
Ron Burgoyne	Kingsville	**Sheldon Laporte**	Toronto
Jamil Chahbar	London	**Peter Luchowski**	Richmond Hill
Tony Cosentino	London	**Marlene Sklar**	Thornhill
Ken Dixon	London	**Shauna Stein**	Toronto
Jason Doucet	Toronto	**John Thompson**	Toronto
Angela Huynh-Chew	Fort Erie	**Peter Watts**	Burlington
Lorelei Kidd	Toronto		